

Jun 17, 2021

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

DARRIN D. FOUNTAINE,

Defendant.

No. 2:21-CR-00064-SAB

**PROTECTIVE ORDER  
REGARDING COMPUTER  
FORENSIC REVIEW  
PROCEDURES FOR CHILD  
PORNOGRAPHY  
CONTRABAND**

Before the Court is the parties' Stipulation Regarding Computer Forensic Review Procedures for Child Pornography Contraband, ECF No. 16. The parties stipulate and agree the Court should enter a Protective Order that will encompass computer forensic review procedures for child pornography contraband in the above-captioned case. Good cause exists to enter the requested Protected Order.

Accordingly, **IT IS HEREBY ORDERED:**

1. The parties' Stipulation Regarding Computer Forensic Review Procedures for Child Pornography Contraband, ECF No. 16, is accepted.

2. The Court enters the following Protective Order Regarding Computer Forensic Review Procedures for Child Pornography Contraband:

a. 18 U.S.C. § 3509(m) applies to this case, and the Court is required

**PROTECTIVE ORDER REGARDING COMPUTER FORENSIC  
REVIEW PROCEDURES FOR CHILD PORNOGRAPHY  
CONTRABAND ~ 1**

1 to deny defense requests to copy, photograph, duplicate, or  
2 otherwise reproduce material constituting child pornography if the  
3 government makes the material reasonably available to Defendant  
4 and provides an ample opportunity for the defense to examine it at  
5 a government facility. *See* 18 U.S.C. § 3509(m).

6 b. In order to comply with 18 U.S.C. § 3509(m), and to allow  
7 Defendant the greatest opportunity to prepare an effective defense  
8 in preparation for trial in this matter, the government will make a  
9 true forensic, bit-by-bit E01 image of devices and media  
10 containing alleged child pornography contraband at issue in the  
11 above-referenced case. The United States will make that forensic  
12 image reasonably available to Defendant and provide ample  
13 opportunity for the defense team to examine it at a government  
14 facility in Spokane, Washington. The parties may readdress the  
15 Court if there is a need for additional or after-hours access during  
16 the course of litigation or additional forensic review.

17 c. The defense forensic examination will be conducted in an  
18 interview room monitored by closed-circuit television (“CC-TV”),  
19 without audio feed. While the TV with non-audio feed will ensure  
20 the integrity of FBI space and security of its occupants, the video  
21 feed is not of sufficient detail or at an angle that would reveal  
22 defense strategy. The government and its agents expressly agree  
23 that no attempt will be made to record any audio from the  
24 workstation and that no attempt will be made to observe the  
25 defense team’s work product or computer monitor screen at any  
26 time. The defense expert may review the feed to ensure that  
27 defense strategy is not being compromised at any time while  
28 conducting the forensic review.

- 1 d. The defense team<sup>1</sup> shall not make, nor permit to be made, any  
2 copies of the alleged child pornography contraband pursuant to this  
3 Protective Order and shall not remove any contraband images from  
4 the government facility. The defense expert will be allowed to  
5 copy any file that is not contraband and compile a report (without  
6 contraband images/videos) documenting the examination on  
7 removable media at the discretion of the defense expert. The  
8 parties and the witnesses shall not disclose minors' identities  
9 during any proceedings connected with this case. The parties and  
10 witnesses will refer to alleged minor victims only by using agreed-  
11 upon initials or pseudonyms (e.g., "Minor Victim 1"), rather than  
12 their bona fide names, in motions practice, opening statements,  
13 during the presentation of evidence, in closing arguments, and  
14 during sentencing.
- 15 e. The defense expert and investigator will leave at the government  
16 facility any equipment, including hard drives, which contain child  
17 pornography contraband that is identified during forensic  
18 evaluation.
- 19 f. For the purpose of trial, the United States agrees to make available  
20 a digital copy of any United States' trial exhibit that contains  
21 contraband, which will be kept in the custody and control of the  
22 case agent. Upon reasonable notice by the defense, the case agent  
23 will also maintain for trial digital copies of any proposed defense  
24 exhibit that contains contraband. If the defense team intends to

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26 <sup>1</sup> For purposes of this Protective Order, the term "defense team" refers solely to  
27 Defendant's counsel of record ("defense counsel"), Defendant's designated expert  
28 ("defense expert"), and a defense investigator.

1 offer, publish, or otherwise utilize any government or defense  
2 exhibit contained on the digital copy maintained by the case agent  
3 during trial, the case agent shall assist the defense team in  
4 publishing or utilizing the exhibit that contains contraband upon  
5 notification by the defense team.

6 **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order  
7 and forward copies to counsel.

8 **DATED** this 17th day of June 2021.



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A handwritten signature in blue ink, reading "Stanley A. Bastian", is written over a horizontal line.

14 Stanley A. Bastian  
15 Chief United States District Judge  
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